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DR. K. B. MENON :—" Sir, the House also may be informed about it."

12 noon SRI K. VINAYAKAM :—" Sri S. Deivasigamany took the remarks seriously and asked me to come to a duel outside, Sir." (Laughter.)

MR. SPEAKER :—" Is it with long swords or short swords? " (Laughter.)

SRI P. CHELLATHURAI :—" கனம் சபாநாயகர் அவர்களே, ஒரு தகவல் அறிய விரும்புகிறேன். சட்டசபையின் புதிய விதிமுறைகள் பரிசீலனை செய்யப்பட்டு சமீபத்தில் அங்கீகரிக்கப்பட்டிருக்கின்றன. அவைகள் எங்களுக்கு தமிழில் அச்சடித்துக் கொடுப்பதற்கான ஏற்பாடு செய்யப்படுமா என்பதைத் தெரிய விரும்புகிறேன்."

MR. SPEAKER :—" நான் ஏற்பாடு செய்கிறேன்."

SRI R. V. SWAMINATHAN :—" We heard a very interesting ruling that was given by the Chair. I ask you, Sir, suppose I have a feeling to fight a duel against another Member (in fact I am having such a feeling) whether I should give you notice? " (Laughter.)

* SRI S. SWAYAMPRAKASAM :—" I think only with regard to duel with arms, we should give you notice. What about duel in words, Sir? "

MR. SPEAKER :—" Wordy duel will not come in." (Laughter.)

III.—BUSINESS OF THE HOUSE.

DISCUSSION *re* PRIVILEGE MOTION ABOUT INTERCEPTION OF LETTERS BY SPECIAL BRANCH POLICE.

MR. SPEAKER :—" I hope the House would remember the other day Mr. Kalyanasundram gave notice of a motion that his letters were intercepted in the middle, that the same had been delivered to him after a few days and that it constitute a breach of privilege. Before going through the motion, I want to give certain information to hon. Members, regarding the function of the Chair regarding privilege motions. The House should have a clear idea.

" A privilege question is always decided by the House. The House is the final authority. As far as the Speaker is concerned, he simply says, whether a *prima facie* case is made out or not. ' *Prima facie* ' as you know is a Latin phrase which means ' on the first view '. The House is not bound to accept it when the Speaker says a *prima facie* case is made out. It can decide each case on its own merit. Last time such a thing happened. I said a *prima facie* case was made out but the House decided otherwise.

" It would interest the House to know the views expressed by Sir Gilbert Campion, who is now Lord Campion, the living

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leading authority on 'Parliamentary Procedure'. Before a committee which sat to enquire into the breach of privilege on the 17th March 1948, Mr. Greenfell, a Member of the Committee, asked Sir Gilbert :

'Is not the ruling of the Speaker that it is a *prima facie* case tantamount to an instruction that the matters would go before the Committee of Privileges?'

Sir Gilbert Campion.—No, not an instruction. If Mr. Speaker rules that there is a *prima facie* case, what follows from that is, that it can be debated then and there and take precedence over the orders of the day. The House could deal with it on a motion on the spot, declaring that it was or was not a breach of privilege; but in most cases if there is a question of doubt, it would be referred to a Committee of Privileges.

Mr. Greenfell.—A division of the Members present would decide it? Hon. Members should see that the House is the final authority. Sir Gilbert Campion then says :

Sir Gilbert Campion.—Yes.

Earl Winterton.—May we just clear up the point Mr. Greenfell has just made. By longstanding custom Mr. Speaker's duty is confined to ruling whether or not the matter is a matter of *prima facie*, breach of privilege and making such observations as he pleases to make. He cannot give instructions to this Committee as to any finding.

Sir Gilbert Campion.—Certainly not.

Mr. Attorney General.—Privilege might go further in the protection of the honour of the House than the law of libel does in the protection of the honour of the citizen.

Sir Gilbert Campion.—Yes.

Mr. Attorney General.—Are we bound by the fact that the Speaker has ruled that there is a *prima facie* case of privilege, ourselves to rule that it is a case of privilege.

Sir Gilbert Campion.—By no means.

Mr. Attorney General.—Equally we are not bound by the ruling of the Speaker the other way round.

Sir Gilbert Campion.—No, I should say not. The House alone can finally decide, and the Committee of Privileges alone can advise the House.

I have now made the position clear. The House is the final authority. As far as the Speaker is concerned, he simply says, whether a *prima facie* case is made out or not. The ultimate decision rests with the House. Now, Mr. Kalyanasundram may speak."

* SRI S. SWAYAMPRAKASAM :—"You were pleased to read elaborately the points involved in the matter. Of course the House is the final authority. The Speaker says whether a *prima facie* case is made out or not. When the Speaker says there is a *prima facie* case and the matter is referred to the Committee of Privileges and the Committee submits its report, can the House take a contrary decision afterwards? Then what is the purpose served by the report of the Committee of Privileges?"

MR..SPEAKER :—"I will explain the position. Suppose the Speaker says there is a *prima facie* case. It is left to the House to refer it to the Committee of Privileges or not. Last time on one

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occasion I said a *prima facie* case has been made out. But the House, on the spot, decided otherwise. The House is the final authority. Even supposing initially the case is referred to a Privileges Committee and the Committee has finished its findings, it is left to the House to say whether that report should be printed or not. The House may nullify the report of the Privileges Committee or it may add something more to it, if it so decides. The House is the ultimate authority. Simply because the Committee of Privileges says one thing, it does not mean it is final. It is for the House to decide ultimately. From the beginning to the end of the report, the House may change, if it so decides."

* SRI S. SWAYAMPRAKASAM :—" Then what exactly are the functions of the Committee? Why is it constituted, if its findings are not binding? "

MR. SPEAKER :—" The Committee will go into the details of the case, find out the facts and recommend to the House whether a *prima facie* case has been made out or not. That is all their job. It is open to the House to accept it or reject it. The Committee is composed of some members of the House because it is not possible for all the 230 members of this House (there are 625 members in the House of Commons) to go through the case. Therefore a Committee of Privileges consisting of some selected members of the House is appointed. The House delegates its power to this Committee. The Committee goes into the facts of the case and recommends to the House whether a *prima facie* case has been made out or not. Its report will be placed on the table of the House. It shall be submitted to the House by the Chairman of the Committee. Then a motion will be made whether it should be printed or not. If the House decides that it should be printed, the report would be printed and circulated to all members. Another day will be set apart for discussion of the report of the Committee of Privileges. The House will come to its own final conclusion after discussing the report. The House is the final authority. It can accept or nullify the recommendation of the Committee of Privileges."

* DR. K. B. MENON :—" Under the circumstances explained by the Hon. Speaker, what is the purpose served by the Speaker saying whether there is a *prima facie* case or not? "

MR. SPEAKER :—" The Hon. Member has not understood what I had said. *Prima facie* is a Latin phrase meaning ' on the first view. ' The Speaker says on a first view whether a *prima facie* case has been made out or not. Evidently the hon. Member has not understood what I had said. I will circulate to all hon. Members what I had said."

* SRI S. SWAYAMPRAKASAM :—" Suppose the Speaker says there is a *prima facie* case. The matter is referred to the Committee of Privileges. Can they say after examination that there is no *prima facie* case? Can they go against your ruling? "

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MR. SPEAKER :—“ I have made the point very clear in my speech. Suppose I say there is a *prima facie* case, and the matter is referred to a Committee of Privileges. The Committee is at liberty to go into the facts of the case and recommend what it thinks fit. It can say whether a *prima facie* case has been made out or not. What the Speaker says is only ‘ on the first view ’, which is the meaning of the Latin phrase. The House can decide the issue finally.”

* SRI S. SWAYAMPRAKASAM :—“ The Committee of Privileges after going into the whole issue gives its verdict. If we say that the House is at liberty to decide finally, I think it narrows down to cutting down the powers of the Committee of Privileges. That is my view.

MR. SPEAKER :—“ The House can *de novo* examine it.”

SRI P. RAMAMURTHI :—“ Mr. Speaker, Sir, may I just express the matter as I have understood it and I would like to be informed whether my understanding of the subject is correct. I understood it to mean that the Hon. Speaker acts in an advisory capacity so far as this question is concerned by virtue of the fact that he is more thoroughly conversant with the rules. Therefore, the first statement that the Hon. Speaker might make on the question whether there has been a *prima facie* case is made purely in an advisory capacity and it is for the House to discuss the whole question. Similarly, it is open to the House at the very first point of time when a question of privilege is brought to its notice to take a decision straightaway on the question whether a breach of privilege has been committed and if so, what action has to be taken and the House may also decide”

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MR. SPEAKER :—“ Just as the House decides to remit a Bill to a Select Committee for the purpose of going through it in greater detail.”

SRI P. RAMAMURTHI :—“ Similarly, the House may, under certain circumstances when it wants the whole question to be canvassed in greater detail, remit the matter to the Committee of Privileges and request them to make any recommendation which the Committee may care to make on that question. Even if the matter is remitted to the Privileges Committee, it is ultimately for the House to decide whether a breach of privilege has been committed and if so what punishment it merits. Am I right, Sir? ”

MR. SPEAKER :—“ Yes, the hon. Member has understood it correctly.”

* SRI S. PANCHAKSHARAM :—“ On a point of order, Sir. I would like to know whether before the discussion takes place on the subject, you can rule that there is a *prima facie* case

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on the facts alleged by the Deputy Leader of the Opposition. After all, from the note that has been circulated, it is found that a particular letter posted on a particular date”

MR. SPEAKER:—“ I only placed before the House the procedure that has to be adopted. I have not expressed any opinion at all.”

* SRI S. PANCHAKSHARAM:—“ There are two stages. One is that the Hon. Speaker must find that a *prima facie* case has been made out. If he finds that there is a *prima facie* case, then it goes before the Committee of Privileges.”

MR. SPEAKER:—“ It is the House that has the final authority to decide. I am just quoting the procedure. Now let us take up the question of breach of privilege.”

THE HON. SRI C. SUBRAMANIAM:—“ Suppose the Hon. Speaker says that there is a *prima facie* case. Then, of course, precedence is given for a motion on that subject. Suppose the Speaker says that there is no *prima facie* case. Then if the hon. Member wants to press the matter, he will have to give notice of a resolution that the matter might be referred to a Committee of Privileges. That will come up in the ordinary course and not immediately. It won't be given precedence.”

MR. SPEAKER:—“ Any hon. Member can move either at once or afterwards that it be referred to a Committee of Privileges.”

THE HON. SRI C. SUBRAMANIAM:—“ Sir, when you rule that there is a *prima facie* case, it can be discussed immediately. I agree. It gets precedence over other business and that is the opinion you have expressed. But suppose the Speaker rules that there is no *prima facie* case, then what is the procedure to be adopted if the particular member wants to proceed with the question further? Is he to give notice of a regular motion which will come up for consideration in the ordinary course? ”

MR. SPEAKER:—“ There is also another aspect. Simply because the Speaker says that a *prima facie* case has been made out, it does not mean that the House is bound to accept it. The House may still decide that it be referred to a Committee of Privileges. Suppose the Speaker says that there is no *prima facie* case. In that case any hon. Member can move that it be referred to a Committee of Privileges.”

THE HON. SRI C. SUBRAMANIAM:—“ As far as that is concerned, I think that it won't be on a par with the motion where the Speaker has ruled that there is a *prima facie* case. It will have to be taken up in the ordinary course.”

(At this stage, the hon. Member Dr. K. B. Menon rose from his seat to speak.)

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MR. SPEAKER:—“ I will allow the hon. Member to have his say. Let him not be in a hurry. He has not understood the position.

“ Suppose the Speaker says that there is a *prima facie* case, then and there the House can discuss the matter and it can be decided without referring it to a Committee of Privileges. For instance, suppose one hon. Member beats another. It is a breach of privilege. Then and there it can be decided.”

* DR. K. B. MENON :—“ The Hon. Speaker disposed of me by saying that I did not understand the position. I did not understand it. The doubt in my mind is when the Speaker says that there is a *prima facie* case, is he not prejudging the issue beforehand by tendering that advice a little prematurely? ”

MR. SPEAKER :—“ I have already explained what ‘ *prima facie* ’ means. It is a Latin phrase which means ‘ on the first view ’. It has a face value but has no intrinsic value. I am not going to allow any more discussion. The hon. Member Sri M. Kalyanasundram will have his say in the matter.”

* SRI M. NARAYANA KURUP :—“ Sir, I want to make a submission which has an important bearing on this question. Fortunately, the Hon. Speaker has announced that he has signed the new Rules and that they have come into force. Rule 187 says ‘ Notwithstanding anything contained in these rules, the Speaker may *suo motu* refer any question of privilege to the Committee of Privileges for examination, investigation or report ’. Therefore, all this elaborate discussion is unnecessary, because, under the rules, the Speaker himself is entitled to refer the matter to a Committee without consulting anybody.”

*SRI M. KALYANASUNDRAM :—“ கனம் சபாநாயகர் அவர்களே, இப்போது இந்தப் பிரத்யேக உரிமை பிரேரேபணையை கொண்டுவந்து பேசுகையில் சபையின் அங்கத்தினர்களின் உரிமை பாதிக்கப்படுகிறதா, இல்லையா, என்ற சட்ட விவரங்களுக்குப் போவதற்கு முன்னதாக முன்னால் நடந்து இருக்கக்கூடிய விவகாரங்களை சட்டசபை முன்பு வைப்பதற்கு விரும்புகிறேன். முதலில் விவரங்களைத் தெரிந்துகொண்டு பிறகு நாம் விதிகளுக்கும், நடைமுறைகளுக்கும் செல்லலாம் என்பது என்னுடைய அபிப்பிராயம். விவரங்கள் என்ன என்பதுபற்றிச் சொல்லும்போது என்கையில் கவரம் கடிதமும் இருக்கின்றன. இந்தக் கவரை நான் சென்னையிலேயே டிசம்பர் ஒண்ணாம் தேதியன்றைய தபாலில் என் நம்பிக்கைக்கு உகந்த ஒரு நபர் மூலமாக அந்த கவரைப்போட வைத்து அந்த கவர் போடப்பட்ட விவரத்தையும் தெரிந்துக்கொண்டிருக்கிறேன். இந்தக் கடிதம் பொன்மலையிலுள்ள தென்பிராந்திய ரயில்வே சங்கத்தைச் சார்ந்த நண்பர் ஸ்ரீ என். கிருஷ்ணசாமிக்கு எழுதியிருக்கிறேன். இந்தக் கவர் மவுண்ட் ரோட் தபால் ஆபீசில் முத்திரை போடப்பட்டிருக்கிறது.”

THE HON. SRI C. SUBRAMANIAM :—“ அது என்ன தேதி ? ”

*SRI M. KALYANASUNDRAM :—“ டிசம்பர் 1, 1954. அதில் 1 என்ற எண் அழிக்கப்பட்டிருக்கிறது. அதை நன்றாகப் பார்க்கலாம். அந்த 1 என்ற எழுத்தை அழிக்க முயற்சித்தும் அது வெற்றிகரமாக அழிக்கப்படவில்லை என்பதும் அதிலுள்ள ஸ்லேப் பார்த்தாலேயே தெரியும். அந்த முத்திரையைப் பார்த்தவர்களே நன்றாக தெரிந்துகொள்ளலாம்.

[Sri M. Kalyanasundram] [15th December 1954]

கடிதத்தைத் திருப்பிப் பார்த்தால் அங்குள்ள முத்திரையில் டிசம்பர் 4, 9 ஏ. எம். என்றிருப்பதைக் காணலாம். இதற்கு இடையில் இரண்டாம் தேதி காலை யில் இந்தக் கவர் பொன்மலை தபாலாபீசுக்குப் போனவுடன் வழக்கம்போல் அதை விலாசதாருக்குக் கொடுக்காமல் வழக்கமாக அங்கு நடக்கக்கூடிய முறையில் காலையில் தபாலாபீசுக்குப் போய் இந்த கடிதம் எடுத்துக் கொள்ளப்பட்டிருக்கிறது.”

AN HON. MEMBER :—“ There is some noise.”

MR. SPEAKER :—“ Is it inside the House or outside? ”

SRI K. VINAYAKAM :—“ It is outside the House.”

* SRI M. KALYANASUNDRAM :—“ இந்தக் கவரை எடுத்துக்கொண்டு போய் அதை ஸ்பெஷல் பிராஞ்சு போலீஸ் ஹெட் காண்ஸ்டபிள் பார்வையில் வைக்கப்பட்டது. அவருடைய காரியாலயத்தில் அந்தக் கவர் இரண்டு நாட் களுக்கு வைக்கப்பட்ட பிறகு நாலாம் தேதி காலையில் அதை தபாலாபீஸ் பெட்டியில் போடப்பட்டிருக்கிறது. அதற்கு தபாலாபீஸ் நாலாம் தேதி முத்திரை போடப்பட்டிருக்கிறது. அன்றையதினமே அந்தக் கவரைக் கொண்டுபோய் விலாசதாருக்குக் கொடுக்கப்பட்டிருக்கிறது. இதுதான் நடந் திருக்கிறது. (இந்த சமயத்தில் கனம் கலியாணசுந்தரம் தாவா கவரை கனம் சி. சுப்ரண்யம் அவர்களிடம் கொடுத்து வேண்டுமென்றால் அதைப் படித்துக்கொள்ளலாம் என்றும் குறிப்பிட்டார்.) டூப்படி இந்த ஒரு கடிதத்திற்கு மட்டும் நடந்தது அல்ல. எல்லா கடிதங்களும் இந்த வித மாகத்தான் பாதிக்கப்படுகின்றன.”

MR. SPEAKER :—“ There is a lot of noise and I am not able to hear the hon. Member.”

SRI P. RAMAMURTHI :—“ There is a deputation of the beedi-workers which is waiting upon the Chief Minister. The hon. Member Sri K. P. Gopalan has gone out to receive the deputationists and take them to the Chief Minister. Therefore, the noise will subside in a few minutes.”

* SRI M. KALYANASUNDRAM :—“ இந்தக் கடிதம் மட்டுமல்ல, எல்லா கடிதங்களும் இந்த விதமாகத்தான் பாதிக்கப்பட்டு வருகின்றன. எனக்கு இந்த சட்ட சபை அங்கத்தினர் என்ற முறையில் வரும் கடிதங்களும் நான் பிறருக்கு சட்ட சபை அங்கத்தினர் என்ற முறையில் எழுதும் கடிதங் களும் ஸ்பெஷல் பிராஞ்சு போலீசாரால் பறிமுதல் செய்யப்பட்டு வருகின்றன. இந்த வழக்கம் பொன்மலையில் வழக்கமாக நடந்து வருகிறது என்பதையும் இந்த சபையின் கவனத்திற்கு இப்பொழுது கொண்டுவர விரும்புகிறேன். மற்றவர்களிடமிருந்து வரும் தபால் விஷயங்கள் மட்டுமென்ன,—கனம் சபா நாயகருக்கு நான் எழுதும் கடிதங்களும், எனக்கு கனம் சபாநாயகர் எழு தும் கடிதங்களும் இதேமாதிரியாகத்தான் பாதிக்கப்பட்டு வருகிறது. இதைத் தெரிந்துகொள்ள வேண்டுமென்று கனம் சபாநாயகர் விரும்பினால் யாராவது ஒரு ப்யூனை அனுப்பி அவன் மூலமாக போஸ்டாபீசுக்கு லெட்டரைக் கொடுத்துவிட்டு வந்தாலும், அங்குள்ள யாராவது ஒரு டாக்ஸி டிரைவரைக் கூப்பிட்டு விசாரித்தாலும் போதும், இந்த விஷயங்களைத் தெரிந்துக்கொள்வ தற்கு, அவர்கள்கூட இவ்விதம் நடந்துவரும் விஷயங்களைக் குறிப்பிடுவார் கள்.”

THE HON. SRI C. SUBRAMANIAM :—“ I do not think all these points arise at this stage. We shall take it for granted that the letter was intercepted and proceed on that basis.”

15th December 1954]

*SRI M. KALYANASUNDRAM:—“ இந்தக் கடிதங்கள் ஸ்பெஷல் பிராஞ்சு போலீசாரால் வழிமறிக்கப்பட்டு பார்வையிடப்படுகிறது உண்மை என்று வைத்தக்கொள்ளலாம் என்று சொல்லப்படுகிறது. அதன் மூலமாக இந்த சபை அங்கத்தினர்களுடைய ‘அங்கத்தினர் உரிமை’ பாதிக்கப்படுகிறதா இல்லையா என்பதைத்தான் இனிமேல் பார்க்கவேண்டும். அதைப் பற்றிதான் இனிமேல் பேசவேண்டும். அதனால் என்னுடைய பிரச்சனை சலபமாகப் போய்விட்டது. இனிமேல் உரிமை பிரச்சினைக்கு இடமிருக்கிறதா இல்லையா என்பதைத்தான் பார்க்கவேண்டும். கனம் சபாநாயகர் அவர்கள் இந்தப் பிரச்சினையை தீர்க்க அதற்கு வேண்டிய முயற்சிகளை எடுத்துக்கொண்ட தற்காக நான் கனம் சபாநாயகர் அவர்களை பாராட்டுகிறேன். அதற்காக பல புத்தகங்களையும், பல ஐலிங்களையும் பார்த்து வந்ததற்கு என்னுடைய பாராட்டுதலைத் தெரிவித்துக்கொள்ளுகிறேன். இப்பொழுது அதிலிருந்து நாம் ஒன்றை கவனிக்கவேண்டும். அதாவது :

‘The distinctive mark of a privilege is its “ancillary character”. They are enjoyed by individual members because the House cannot perform its function without the unimpeded use of the service of its members and by each House for the protection of its members and the vindication of its own authority and dignity. By protecting the rights and dignities of members inside Parliament, these privileges enable them to serve and protect the interests of their constituents outside.

‘I would request you, Mr. Speaker, to note kindly the second portion of the second sentence quoted above, viz.,—

“... the House cannot perform its functions without the impeded use of the service of its members.”’

இதன் அர்த்தம் என்னவென்றால் சபையின் ஒவ்வொரு அங்கத்தினரும் தன்னுடைய சபைக்குச் செய்ய வேண்டிய வேலைக்கும் தன்னுடைய தொகுதிக்குச் செய்யவேண்டிய வேலைக்கும் எந்தவிதமான இடையூறும் குந்தகமும் இல்லாமல் வேலை செய்ய வேண்டும் என்பதற்கு அதில் வசதி செய்யப்பட்டிருக்கிறது. அது இதிலிருந்து நன்றாக உணரப்படுகிறது. அதற்குமேல் ஒவ்வொரு அங்கத்தினரும் தன்னுடைய உரிமையை பாதுகாத்துக்கொள்வதானால் அவர் தன்னுடைய தொகுதி மக்களுக்கும் தன்னுடைய தொகுதிக்கும் வேலை செய்வதற்கு வசதியாக இருக்கமுடியும். அதன்மேல் தன்னுடைய தொகுதி மக்களின் நன்மைகளை பாதுகாக்க முடியும். இவைகள் இந்த விதியிலிருந்து நன்றாகத் தெரியவருகிறது. இப்பொழுது நாம் கவனிக்கவேண்டிய விஷயம் என்னவென்றால் அங்கத்தினர் என்ற முறையில் செய்யக்கூடிய வேலைக்கு ஏதாகிலும் இடையூறுகள் ஏற்பட்டிருக்கிறதா அல்லது இல்லையா என்பதைப் பார்க்கவேண்டும். அவ் விதமான இடையூறு இப்பொழுது ஏற்பட்டிருக்கிறது என்பதுதான் என்னுடைய கட்சி. அவ்விதம் ஏற்படுத்தப்பட்டிருப்பதற்கு யார் பொறுப்பு? அது அங்குள்ள நிர்வாகஸ்தர்களால் ஏற்பட்டிருந்தால் அந்த நிர்வாகஸ்தர்களின் மேல் நடவடிக்கை எடுப்பது சர்க்காரின் பொறுப்பு. இந்த இரண்டு விஷயங்களையும்தான் நாம் கவனிக்கவேண்டும். இவ்விதமான இடையூறுகள் இப்பொழுது ஏற்பட்டிருப்பதை இனிமேல் அனுமதித்தால் அது அங்கத்தினருடைய உரிமையை பாதிப்பதாக ஏற்படும். இதுதான் என்னுடைய கருத்து. இந்த சபையின் அங்கத்தினர்கள் என்ன முறையில் தன்னுடைய தொகுதிக்கு வேலைசெய்து வருகிறார்கள் என்பதை நாம் கவனிக்கவேண்டும். சட்டசபையில் கேள்விகள் கேட்கப்படுகின்றன. தீர்மானங்கள் கொண்டுவரப்படுகின்றன. உத்தியோக பற்றற்ற முறையில் பல மசோதாக்கள் கொண்டுவரப்படுகின்றன. செலக்ட் கமிட்டிகள் அமைக்கும் போது அவைகளில் பங்கு எடுத்துக்கொள்ளப்படுகின்றன. அரை மணி நேர விவாதத்திலிருந்து ஒத்திவைப்புப் பிரேரேபணைவரையில் கேட்கப்படுகின்றன. இவைகள் மூலமாகத்தான் அங்கத்தினர்களால் வேலை செய்யப்படுகின்றன. இவைகளுக்கு உதவி அளிக்கக்கூடிய முறையில்தான் இந்த விதி இருக்கிறது.”

[15th December 1954]

MR. SPEAKER :—“நான் உங்களுக்கு எழுதும் கடிதங்களும், நீங்கள் எனக்கு எழுதப்படும் கடிதங்களும் மத்தியில் பிரித்துப்பார்க்கப் படுகிறது என்று நீங்கள் உங்களுடைய தீர்மானத்தில் குறிப்பிடவில்லை.”

*** SRI M. KALYANASUNDRAM :—**“நான் உங்களுக்கு எழுதும் கடிதங்களும் நீங்கள் எனக்கு எழுதும் கடிதங்களும் மத்தியில் பிரித்துப் பார்க்கப்படுகிறது என்று நான் குறிப்பிடவில்லை என்பது வாஸ்தவம்தான்.”

MR. SPEAKER :—“நீங்கள் அதைப்பற்றி உங்கள் தீர்மானத்தில் குறிப்பிடவில்லை. மந்திரிகளுக்கு எழுதும் கடிதங்களைப்பற்றியும் நீங்கள் குறிப்பிடவில்லை. அந்தத் தீர்மானத்தில் ஸ்பீகரைப்பற்றி ஒன்றுமில்லை என்பதை முதலில் நீங்கள் அறிந்துகொள்ளவேண்டும்.”

*** SRI M. KALYANASUNDRAM :—**“நான் உங்களுக்கு எழுதிய கடிதத்தில் அந்த விவரங்களைப்பற்றி எழுதாமலிருந்திருக்கலாம். ஆனால் ஒரு விஷயத்தை மட்டும் நான் உங்களுடைய ஞாபகத்திற்குக்கொண்டு வர விரும்புகிறேன். ஏற்கெனவே நான் உங்களுக்கு எழுதிய கடிதம் ஒன்று உங்களுக்கு வரவில்லை என்று என்னிடம் நீங்கள் சொல்லி இருக்கிறீர்கள். அந்தக் கடிதத்தை நான் நிச்சயமாக தபாலில் போட்டேன். ஆனால் அது உங்களுக்கு வந்து சேரவில்லை என்று சொல்லி யிருக்கிறீர்கள். இப்படி நான் உங்களுக்கு எழுதிய கடிதங்கூட உங்களுக்கு வராமல் இருந்திருக்கிறது. ஆகவே கனம் சபாநாயகர் அவர்களுக்கு எழுதப்படும் கடிதங்கள்கூட வழியில் மறிக்கப்படுகிறது என்பதை சொல்லிக்கொள்ள விரும்புகிறேன். இந்த விஷயம் என்னுடைய மோஷனில் இல்லை என்பதையும் நான் ஒப்புக்கொள்ளுகிறேன். விவரங்களுக்குத் தான் நான் இதைக் குறிப்பிடுகிறேன்.”

THE HON. SRI C. SUBRAMANIAM :—“A specific motion has been given notice of to the Chair and that motion is now placed before the House. The hon. Member should not bring in any extraneous matter and ask me to reply immediately.”

SRI M. KALYANASUNDRAM :—“நீங்கள் இவைகளுக்கு பதில் சொல்ல வேண்டாம்.”

THE HON. SRI C. SUBRAMANIAM :—“When I am not expected to reply, the hon. Member cannot raise the point.”

12-30
p.m.

*** SRI M. KALYANASUNDRAM :—**“கனம் சபாநாயகர் எனக்கு எழுதும் கடிதங்களும் நான் சபாநாயகருக்கு எழுதும் கடிதங்கள்கூட பாதிக்கப்படுகிறது. இது மட்டுமல்ல. மற்ற அந்தக் கடிதங்களையும் வழிமறித்து ஸ்பெஷல் பிரான்சு போலீசார் குறுக்கிட்டு அதில் எழுதியிருக்கும் விஷயங்களில் தலையிட்டு விவரங்களைத் தெரிந்துகொண்டு வருகிறார்கள். இதனால் உண்மையாக சபையின் வேலைக்கு குந்தகம் விளைவித்து வருகிறார்கள். ஒரு ஜில்லா அதிகாரியைப் பற்றி ஒரு நபர் எனக்கு ஒரு புகார் கடிதம் எழுதியிருந்தாலும் அல்லது ஒரு முதலாளியைப்பற்றி ஒரு புகார் கடிதம் எழுதியிருந்தாலும் அதை ஸ்பெஷல் பிரான்சு போலீசார் பிரித்துப்பார்த்து அந்தக் கடிதங்களை அந்த குறிப்பிட்ட ஜில்லா அதிகாரியிடமோ அல்லது அந்தக் குறிப்பிட்ட முதலாளியிடமோ கொண்டுபோய் காட்டி அவருக்குத் தகவல் (hints) கொடுக்க சாத்தியமாக இருக்கிறது. நான் இந்த சபை அங்கத்தினர் என்ற முறையில் என்னுடைய வேலைகளைச் செய்வதற்கு இது பாதகமாக இருக்கிறது என்பதுதான் என்னுடைய அபிப்பிராயம். இவ்விதம் பாதிக்கப்படுவதற்குக் காரணம் யார் என்றால் அது சர்க்கார்தான். மாற்றுக்கட்சி அங்கத்தினர்கள் இருக்கக்கூடிய இந்த சபையில் அங்கத்தினர்களுக்கு பாதுகாப்பு அளிப்பதற்கு சர்க்கார், தங்களுடைய நிர்வாகத்தின்கீழ் இருக்கும் அதிகாரிகளுக்கும் போலீஸ் அதிகாரிகளுக்கும் இவ்விதம் செய்வதைத்

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தடுப்பதற்கு ஒரு உத்தரவு அனுப்பிவைக்கவேண்டும். அதைத் தடுக்க சர்க்காரிடம் அதிகாரம் இருக்கிறது. இவ்விதமான அதிகாரம் இருக்கும் போது சர்க்கார் இதைத் தடுத்திருக்க முடியும். அப்பொழுது இந்த பிரச்னைக்கு அவசியம் இல்லை. நாங்கள் தொகுதி மக்களுக்கு எழுதும் கடிதங்களையோ அல்லது பொது மக்கள் எங்களுக்கு எழுதும் கடிதங்களையோ வழி மறித்து அவைகளில் போலீசார் குறுக்கிடாமலிருக்கவேண்டும். அப்பொழுதுதான் இந்த சபையின் அங்கத்தினர்கள் தங்களுடைய வேலையை எந்தவிதமான குந்தகமும் இல்லாமலும் செய்ய முடியும். ஆகவே இதன் மூலமாக எங்களுடைய விசேஷமான உரிமைகள் பாதிக்கப்பட்டு எங்களுடைய வேலைகளுக்கும், நாங்கள் இந்த சபைக்குச் செய்ய வேண்டிய கடமைகளுக்கும் குந்தகம் ஏற்பட்டிருக்கிறது. ஆகவே எங்களுடைய உரிமை இந்த விஷயத்தில் பாதிக்கப்பட்டிருக்கிறது. இது ஒரு நியாயமான விஷயம். இதை ஒரு ப்ரிவிலேஜ் கமிட்டிக்கு விடவேண்டும் என்று நான் கேட்டுக்கொள்ளுகிறேன்.”

MR. SPEAKER :—“ I wish to know whether any other hon. Member wishes to speak.”

(Sri T. C. Narayanan Nambiar rose to speak.)

MR. SPEAKER :—“ Sri T. C. Narayanan Nambiar has brought a similar complaint to my notice. Let him be brief.”

* SRI T. C. NARAYANAN NAMBIAR :—“ Sir, it is a privilege of the legislators that they should be free from interference of this sort. If the letters written by them are intercepted, they cannot function as efficiently as they are expected to function. Hon. Members are expected to help the House as a whole to function efficiently. They have to write to the people of their constituencies for information on the burning issues of the day and keep themselves in constant touch with their constituencies. If their letters are intercepted, they are not in a position to function as legislators and to that extent the House itself will not be in a position to discharge its duties.

“ On 9th December, I sought to move an adjournment motion in this House about a strike in Feroke. At the request of the Hon. Minister concerned that he would answer if a short notice question was put, the motion was not moved. There was the strike continuing on 9th December. I wrote for some information with regard to the strike and a reply was sent to me on the 10th by the Secretary, Feroke Tile Workers Union. The letter was posted at Kozhikode on the 10th and delivered to me at Madras on the 13th. The envelope bears the Kozhikode postal seal dated 10th December and the Madras postal seal dated 13th December. This shows that my letter was intercepted by the police and thus my work as a M.L.A. was interfered with. Interception of letters by the police has become a common practice. That is my submission.”

SRI R. V. SWAMINATHAN :—“ I rise on a point of information, Sir. I want to know whether the allegation in the motion is that the letter was opened by the censor authorities or whether it is only about the delay in delivery.”

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MR. SPEAKER :—“ I have circulated a copy of the motion to the Members and it has also appeared in the newspapers.”

* SRI P. RANGASWAMI REDDIAR :—“ Sir, the question before the House is whether the Members of this House enjoy certain things as privileges. The privileges of this House are not defined. As we all know, in this matter we are governed by the practice in the House of Commons. On page 43 of the May's Parliamentary Practice, Fifteenth edition, we find under the heading ‘ Speaker's Petition ’ that the Speaker used to claim that the Members of the Parliament ‘ may be free from arrests and all molestations ’. On page 49 of the same book, ‘ molestation ’ is defined as comprising victimization or discriminatory action by the king or the executive. Here, the executive makes a discrimination. Simply because a member belongs to a particular political party, his postal communications are sought to be intercepted. It is not the Government's intention to intercept the letters of all the Members; only with respect to a few Members, this practice has been adopted. Thus, there is discrimination. There is also interference with the right of the members to correspond with the people in their constituencies. I think there is a *prima facie* case that there is a breach of privilege of the hon. Members of this House, and I plead that the matter may be referred to the Committee of Privileges for investigation.”

* SRI V. R. NAGARAJAN :—“ It is well known that the Members of the Legislature enjoy certain rights and also certain privileges. It is not always the case that the rights we enjoy are also our privileges. In other words, our rights are not co-terminus with our privileges. The privileges we enjoy are derived by custom and convention as conveyed to us by the precedents obtaining in the House of Commons or those created by Statutes. The Statutory privileges conferred on the State Legislatures are those contained in Article 194 of the Constitution of India. They are freedom of speech in the Legislature, freedom from action in any court in respect of anything said in the Legislature and those privileges defined by the Legislature by law and, until so defined, those of the House of Commons at the commencement of the Constitution of India. These privileges are extended to persons like the Advocate-General who have the right to take part in the proceedings of the Legislature. We do not have privileges established by convention, since we are an infant democracy and have not come to the stage of having clear-cut precedents. Therefore we have necessarily to follow the practice in the House of Commons. I have carefully gone through May's Parliamentary Practice and I find therein a case analogous to the case cited by Sri M. Kalyanasundram. There has not been any clear ruling in a matter like this. Some complaints are based on documents and the others are not based on documents. When complaints are based on documents, the documents could be produced for scrutiny by the Speaker and the hon. Members of the Legislature. In the present case, we are at a

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really ticklish and difficult problem. We have got to reconcile the valuable right of a Member to correspond with the people in his constituency and the inherent right of the Government to intercept letters written by people irrespective of whether they are Members of the Legislature or not. Since we have not got any ruling on this subject even in England, we are under a disadvantage. In deciding this matter, we have a very serious responsibility. Suppose this House comes to the conclusion—may be a wrong conclusion—that interception of letters by the police constitutes a breach of privilege, it will be a conclusion which will be binding on all the future Legislatures. As I said before, we have got to reconcile the valuable right of a member to correspond with the people in his constituency and the right of the Government to intercept letters if they want. The whole thing depends upon what the Government have got to say. If they say that they exercised the right of interception of the letter in the normal course of administration, then I submit that there does not arise any breach of privilege of this House."

SRI A. RATNAM :—“கனம் சபாநாயகர் அவர்களே, தோழர் கல்யாணசுந்தரம் அவர்கள் கொண்டுவந்திருக்கும் உரிமைப் பிரேரணையை நான் ஆமோதித்து ஒரு சில வார்த்தைகள் கூற ஆசைப்படுகிறேன். ஆறு மாதங்களுக்கு முன்பாக ஒரு எம்.பி. அவர்களுக்கு நான் எழுதிய கடிதத்தைப் போலீசார்கள் பிரித்துப் பார்த்துப் பின்னரே அனுப்பியிருக்கிறார்கள். அதே போன்று மூன்று மாதங்களுக்கு முன்பு பார்லிமெண்டு உருப்பினராகிய ஸ்ரீ ஜெயராமன் அவர்களுக்கு எழுதிய கடிதம் உடைக்கப் பட்டு சென்ஸார் செய்யப்பட்ட பின்னரே அனுப்பப்பட்டிருக்கிறது. அவர் என்னிடம் நேரிலே கூறியிருக்கிறார். அரசாங்கத்திற்கு விரோதமான விஷயங்கள் எதையும் இனி எனக்குக் கடிதங்களில் எழுதாதிர்கள், அரசாங்கத்தார் எல்லாக் கடிதங்களையும் சென்ஸார் செய்து பரிசீலனை செய்த பின்னரே அனுப்பி வைக்கிறார்கள் என்று சொல்லியிருக்கிறார். ஆகவே மேற்கொண்டும் இது விஷயமாகப் பேச விரும்பவில்லை. இந்தச் சபையிலுள்ள அங்கத்தினர்கள் அவரவர்களின் தொகுதி மக்களுக்கு நல்ல முறையில் பணியாற்றவேண்டுமென்றால் அவர்களுக்கு வரும் எந்தத் தபால்களும் சரியான முறையில் சென்ஸார் செய்யப்படாமல் அனுப்ப வேண்டியது மிகவும் அவசியமாகும். ஆகவேதான் நான் தோழர் கல்யாணசுந்தரம் அவர்களின் உரிமைப் பிரேரணையை வரவேற்கிறேன். அது ஒரு உரிமைக் கமிட்டிக்கு அனுப்பப்படவேண்டும். குறிப்பாக இன்றைக்கு எனக்கு ஒரு தந்தி வந்திருக்கிறது. திருநெல்வேலி ஜில்லாவிலிருந்து அந்தத் தந்தி வந்திருக்கிறது. தந்தியிலே நேற்றைய தேதி கொண்ட முத்திரை இடப்பட்டிருக்கிறது. இந்தத் தந்தியில் அடங்கிய விஷயம் இன்றைக்கு நான் போட்ட அவசரக் கேள்வியைப் பற்றியதாகும். ஆனால் அந்தத் தந்தி இன்றைக்குத்தான் என்னிடம் கொடுக்கப்பட்டது. அந்தத் தந்தியிலே ஸ்ரீ சங்கர ரெட்டி என்ற எம்.எல்.ஏ. தான் . . .”

MR. SPEAKER :—“நீங்கள் இங்கே அந்தத் தந்தியில் என்ன விஷயம் அடங்கியிருக்கிறது என்று சொல்ல வேண்டாம். அது உடைத்துப் படித்துப் பார்த்த பின்னர் அனுப்பப்பட்டிருக்கிறதா என்று சொல்லுங்கள் போதும்.”

SRI A. RATNAM :—“உடைத்துப் படித்துப் பார்க்கப்பட்டதாகச் சொல்லவில்லை.”

MR. SPEAKER :—“அப்போது தாமதத்திற்குக் காரணம் தபால் காரர் உங்களைத் தேடி அலைந்திருக்கலாம்.” (சிரிப்பு.)

SRI A. RATNAM :—“என்னைத் தேடி அலைந்திருக்க வேண்டிய அவசியமே இல்லை. நான் இந்தச் சபையில்தான் இருந்தேன். அது

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எப்படியிருந்தாலும் தோழர் கல்யாணசுந்தரம் அவர்களின் அவசரப் பிரேரணை மிக முக்கியமானது. இந்தச் சபை அங்கத்தினர்களின் உரிமைகளைப் பாதுகாப்பதற்கு அது கண்டிப்பாக ஒரு கமிட்டிக்கு அனுப்பப்பட வேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.”

* SRI S. PANCHAKSHARAM :—“ Mr. Speaker, Sir, the whole thing is based on a presumption. The reasons for this view are these. From the statement that has been made, it appears that a particular letter has been intercepted. On account of that, it is alleged that there has been delay in the delivery of that letter, that is, the letter which ought to have been received by the addressee on the next day reached him only three days later. That is the complaint that has been made. The hon. Member who complains about this delay seems to presume that the letter has been unwarrantedly intercepted by the Police under instructions from the Government. The statement itself is not very definite on this point. It simply says that it is presumed that the hon. Member is reliably informed, etc. I do not know whether this House can debate on such hypothetical propositions as this. I would suggest to the hon. Member to put a short notice question and get a definite answer whether it is under the instructions of this Government that the Police have intercepted the letter. Then the question may assume importance or may become interesting. Otherwise, what are the facts on which we are called upon to debate? It may be that the usual postal delay has taken place in the delivery of this particular letter also. Or, it may be that the Central C.I.D. Police under the instructions of some other Government have intercepted the letter. How can we fasten the blame to this Government or to the Police under this Government? How is it certain that the State Police have opened the letter? There is no *prima facie* proof or ostensible evidence on the letter. There is no censorship stamp on the letter. I do not think that we can debate on this issue unless a definite charge is made against the Police of this State that they have intercepted the letter of the hon. Member. Otherwise, the privilege question does not become interesting at all.”

* SRI M. NARAYANA KURUP :—“ Mr. Speaker, Sir, this privilege motion is not based on the assumptions that were made by the previous speaker that this Government deliberately asked some of their officers to intercept some of the letters addressed to an hon. Member. Inasmuch as this is a case which is not directly governed by any rulings so far cited, I feel that it is a matter which has to go before the Committee of Privileges where the fullest consideration may be given to it. A few questions that may arise in connection with this case are these. The first point is whether the Government have got the right to censor letters sent to any individual. The second point would be whether the Members of the Legislative Assembly can claim privilege from such interception of all communications. The third point will be whether they are entitled to such privileges in respect of certain communications addressed to them by the officials connected with this Legislature and sent officially to them. Now, this case is simple. It rests

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only on the one question of interception. Then, the further question may arise which is this. Hon. Members are entitled to certain privileges inside this House and within its precincts. They are also entitled to certain other privileges outside this House. For example, they enjoy freedom from arrest not only inside this House but also while coming to and going out of the House. In that way, there is no hard and fast rule with respect to these privileges. As I said already, because there is no direct decision elucidating this point, without commitment, this issue may well go before the Committee of Privileges."

SRI S. C. C. ANTHONY PILLAI :—" Mr. Speaker, Sir, I believe that in the United States it has been held that the privacy of the postal correspondence is sacrosanct and that no member of the Executive has a right to open the letter of even any private citizen."

THE HON. SRI C. SUBRAMANIAM :—" Where did the hon. Member find it? "

SRI S. C. C. ANTHONY PILLAI :—" I have read it somewhere. Here, I do not know whether there is any enabling legislation which allows the Government to open such letters. As far as I know, there is no such legislation. But here is a surreptitious means adopted by the Government to look into the correspondence of people for their own purposes. In the present case under discussion it is alleged that such letters are being opened for purposes of getting for a particular party advantage over the Opposition Parties in this House. Hence, I believe that there has been a serious breach of privilege if this Government either by direct order or by connivance has allowed the members of the Executive to open the letters of hon. Members of this House."

(DR. K. B. MENON rose.)

MR. SPEAKER :—" I thought the hon. Member Sri Narayana Kurup was speaking on behalf of his party."

* DR. K. B. MENON :—" I beg to submit that I do not consider this a Party issue."

MR. SPEAKER :—" I cannot allow a debate on this matter now. It will be better to have a debate on this matter when the Report of the Privileges Committee is before this House provided this matter is referred to it. Now, if we have a debate, we will be pre-judging the matter. We should not go into details now."

* DR. K. B. MENON :—" If the Chair has allowed a Party Member to speak on behalf of my party, then I withdraw."

MR. SPEAKER :—" I do not want to gag the mouth of the hon. Member."

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* DR. K. B. MENON :—“ I am only expressing my own personal opinion in the matter. I feel that every citizen will certainly resent if his mail is intercepted. But I do not believe that is the issue on hand. The Police may be interested in intercepting the mail of a particular person. I understand that the letter was intercepted at the destination, and not at the place of origin which means that the police did not know that the letter was from a Member of the Assembly. From this point of view, I do not see how the privilege of the House is involved. But as the letter happened to be from a Member of the House, the police should not have detained it. We would like to have the full facts before we can come to a decision whether the privilege of the House is involved or not. Therefore, I suggest that the matter may be referred to the Committee of Privileges.”

* SRI S. SWAYAMPRAKASAM :—“ Sir, we are able to see that we have not come across a similar case. There are two kinds of privileges. One is the privilege of the House and the other is the privilege of the Members of the House. In this case the privilege of a particular Member of the House, whose letter is said to have been intercepted by the police, is involved. From the cover, I was able to see that it contained the name of the sender of the letter. So the police knew from whom the letter was coming. The police intercept the letter coming from two sets of persons, viz., the sender and the addressee. When they are interested in intercepting the letter sent by a particular person and when they know that a particular letter was being sent by that person, they intercept that letter. Secondly, when they are interested in intercepting the letter which is addressed to a particular person they intercept that letter also. In this case the police are said to have intercepted the letter sent by a particular person and he happens to be a Member of the Legislative Assembly.

“ The next question that we must consider is whether hon. Member Sri Kalyanasundram wrote that letter to a resident in Golden Rock in his capacity as a Member of this House. When he has particularly written in the cover, ‘ M. Kalyanasundram, M.L.A.’ there cannot be any doubt that he has written that letter in any other capacity except as a Member of this House. All these questions have to be taken into consideration. At this stage we have to come to the conclusion that there is a *prima facie* case for referring the matter to the Committee of Privileges.”

MR. SPEAKER :—“ I will now call the hon. Leader of the Opposition to speak and then the Hon. Leader of the House. After that, I will give my ruling. The hon. Leader of the Opposition may now speak.”

SRI P. RAMAMURTHI :—“ Mr. Speaker, I am afraid that this question being the first of its kind which this House is called

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upon to discuss and decide upon, I may have to take a little more time to go into the details as to the issues that are actually involved here.

“ As far as the facts of the case are concerned, they are very clear. Mr. Kalyanasundram, a Member of this House had written a letter to one of the residents of Golden Rock relating to some matter which he was taking up with the State Government and about which he wanted additional information and facts from that person. This letter had been intercepted and a certain amount of delay had taken place in the delivery of that letter. These are the facts with which we are concerned at present. The question whether this interception was done by the Central Government police or the State Government police or by some other Officer is absolutely immaterial. The question that we are now called upon to consider and decide is whether the interception of letters of communication between a Member of this House and a member of the public constituted a breach of privilege. This is the simple issue with which we are concerned now. That again raises the question what exactly is the privilege involved here. Obviously, privilege is not the same as right. We are not now concerned with the issue whether an individual or citizen of this country has got the right to receive letters without being intercepted. Unfortunately for us, the Constitution of this country, despite the fact that it guarantees so many fundamental rights, has not guaranteed the inviolability of private correspondence. But yet, that is the wonderful Constitution that we are having. However, I am not going into that question. Whether a private citizen has got that right or not, a Member of this House, by virtue of the fact that he happens to be a Member of this House, has certain rights and privileges which are commonly not open to or possessed by other people. Whether this right of the particular Member in this case has been infringed upon and if so to what extent is the simple issue that we have to decide. Now, we have got to seriously consider what exactly is this privilege. You, Mr. Speaker, were good enough the other day to circulate to us a particular note. That note begins by saying that the question of privilege and parliamentary liberties of a Member of Legislature arises from the fact that he has got to discharge certain functions and in the discharge of those functions certain facilities are absolutely essential for him. Therefore, the question of privilege comes here. I am aware of the provisions contained in Article 194 (3) of the Constitution which says :

‘ In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.’

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I know of this article and I have no grouse against it. Whatever it is, for the moment I have to base my argument on this provision only. It is really strange for a Constituent Assembly to have framed a Constitution of this nature which contains among other things a provision which says that with regard to privileges and other such matters we are to be governed by the privileges laid down by the House of Commons. The House of Commons got certain privileges as a result of long years of struggle which it conducted against the King. Now, if the Constitution of this country were to say that we should be governed by the privileges of the House of Commons, it is something which I cannot simply understand. Unfortunately that is the position which we have to face today. I would like to point out that when we deal with a case such as the present one, it is not necessary for us to see whether there has been an identical case in the House of Commons and whether this is one of the privileges which it was able to gain as a result of years of struggle. That is not the way in which we are to look into the matter. We have to decide whether the action of the police in the present case constitutes a breach of privilege. That is the issue with which we are concerned now. I do submit that the action of the police does constitute a breach of privilege. Even if we are to look to the House of Commons for guidance, what is it that we find? We find they have certain well-defined privileges. One of the privileges is freedom of speech and we are not concerned with it. The second privilege is freedom from arrest and with that also we are not concerned. The third privilege that has been defined and accepted by the British Parliament is the privilege relating to freedom from molestation and freedom from arrest. Therefore the question of molestation is also there. Whether the particular thing that happened here comes under the ambit of that privilege, I will argue presently. That is also one of the questions we have to consider. Then the fourth thing is there are certain minor privileges claimed for the Commons and one of them, considered as very important, is access to the King. Fortunately, Sir, I would say our Constitution does not recognize kings. There is no King here."

THE HON. SRI C. SUBRAMANIAM :—" This appears to be a lecture, Sir, and it would be better if we confine ourselves to the facts of the case before us."

SRI P. RAMAMURTHI :—" Yes, Sir, I am confining myself to the case under reference, Sir, I will come to the point how this is relevant to the discussion. There in England, the sovereignty rests with the King. So the question of accessibility to the King was considered a very important privilege. In our country the sovereignty rests with the people of our country. The Preamble to the Constitution states ' We People of the Country ' and so on. Accessibility to the King is an accepted

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privilege of the Members of the House of Commons. In our country where the sovereignty rests not with a King or a King Emperor but with the entire people of our country, the freedom of accessibility to the people who is the sovereign of this country is a very important and fundamental privilege. It is not a minor privilege. It is a basic privilege. Therefore it is that this question is a very important question. How are we to have access to the sovereign of this country, the people of this country? The people of this country have elected certain people to represent them in the Legislature. Even the executive is subordinate to the Legislature; it is the Legislature that exercises that sovereign power on behalf of the entire people. Today the Executive has begun to function as the *imperium in imperio* and assumes supreme powers even over the Legislature in order to see that the functions of the Legislature and Members of the Legislature are rendered nugatory by preventing the Members from having access to the sovereign, namely, the people. Therefore, Sir, I consider this is a very fundamental question of breach of privilege. That is one question.

“ Then, Sir, the other question I would like to argue is the question whether it is molestation or not. It is not molestation in the sense in which a woman is molested, with which we are now concerned now. Here it is a question of a Member of this House being molested from discharging his duties to the people. Let us consider how a Member is molested. Molestation is action taken which will prevent a Member from discharging his functions as an elected representative. It is that which is referred to here. It is not molestation of the other type, that is referred to here, molestation that takes place outside for other purposes. The Legislature is not concerned with that. We are concerned with the type of molestation which prevents the Member from discharging his function as a Member of the Legislature. Now when my letters are being subjected to this kind of censor, when I write letters to my constituents on whose behalf I have to exercise the sovereignty on the floor of this House, when I write to them on questions affecting the life of the people of this country, on questions affecting my own constituents also, when somebody comes and intercepts those letters that creates a certain amount of mental feeling which prevents me from functioning as freely as I otherwise would like to function. I might ask for certain information about the Police on certain matters. I would probably be making those enquiries in my letters to my constituents. But the particular man might take some action and intercept my letters in order to see that his wrong actions are covered up. This interception would make it impossible for me to function in freedom in the manner I would like and ask people to bring to my notice all that happens in my constituency. Therefore this interception is a molestation. My entire functioning becomes impossible. My action becomes inhibited; it is a mental inhibition. Therefore I say there is a *prima facie* case of

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molestation and infringement of my rights to have access to my own sovereign people and therefore there is a *prima facie* case of breach of privilege of the Members of this House in this case.

“ I would ultimately request the whole House to remember this. Let us not look at it . . . ”

MR. SPEAKER :—“ Let him not say ‘ us ’. It includes the Speaker. Let him say ‘ the party opposite ’ or ‘ the Government ’.”

SRI P. RAMAMURTHI :—“ I would request hon. Members opposite to realise that this is not a question to be looked at from the point of view of the Congress Government, or that party alone. This is a question which affects the fundamental rights of every Member of this House whether he belongs to the Congress Party, whether he belongs to the Toiler's Party, whether he belongs to the Commonweal Party or whether he belongs to any other party. It is immaterial to what party they belong. The matter is very fundamental and very important. We are only requesting to refer this matter to a Committee of Privileges to see whether actually a breach of privilege has been committed or not. Let the whole question be thrashed out in all details. Let us discuss the question in greater detail without any reservation, without a closed mind and see that the privileges of Members of this House are safeguarded. It is from that point of view that I would ask this House to agree at least for referring the question to the Privileges Committee so that the question can be thrashed out there in great detail.”

* SRI S. SWAYAMPRAKASAM :—“ On a point of order, Sir. The hon. the Leader of the Opposition was using the expression ‘ hon. Members on the Benches opposite ’. Can we use such expressions, Sir.”

SRI P. RAMAMURTHI :—“ ‘ Opposite ’ in the physical sense, Sir.” (Laughter.)

THE HON. SRI C. SUBRAMANIAM :—“ Sir, the first point for consideration is whether any question of breach of privilege is involved at all. The question of interception comes only later on. For the purposes of argument I need not admit either that the letters were intercepted or were not intercepted . . . ”

MR. SPEAKER :—“ The Hon. Minister is not admitting that the letters were intercepted.”

THE HON. SRI C. SUBRAMANIAM :—“ I am neither admitting nor denying because it does not arise so far as this motion is concerned.”

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MR. SPEAKER:—"The hon. Member says, letters were intercepted."

THE HON. SRI C. SUBRAMANIAM:—"Sir, unfortunately under the provision under which we are given the power to intercept letters, we are not entitled to give out the names of persons whose letters are intercepted. Therefore, I am unable either to deny or admit that letters have been intercepted. Whether there has been interception or not, perhaps that question has to be taken up by the Committee and decided later on, after it is decided that this involved a matter of breach of privilege. The Committee will have to decide whether as a matter of fact interception was made on the orders of this Government and who intercepted and all those things. The point for consideration now is whether the interception of letters written by hon. Members to persons outside involved a breach of privilege of the Members of this House. That is the first point for consideration on which the Hon. Speaker will have to say whether there is a *prima facie* case of breach of privilege made out. Then only all other questions will arise. Then the regular procedure will be gone through. I am now only concerned with this point, whether it involved a breach of privilege." (Interruption.)

MR. SPEAKER:—"Let not the hon. the Leader of the Opposition interrupt the Hon. Minister."

THE HON. SRI C. SUBRAMANIAM:—"It does not matter, Sir. It is the privilege of the hon. the Leader of the Opposition. The point is this. Here is an Act. The Indian Post Offices Act of 1898. I will read out section 26 (1) from that Act for the benefit of hon. Members. That section says:

'On the occurrence of any public emergency, or in the interest of the public safety or tranquillity the (Central Government), or a (State Government) or any officer specially authorised in this behalf (by the Central or the State Government), may by order in writing direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained, or (shall be disposed of in such manner as the authority issuing the order may direct).'

Now, I have to argue as far as the State Government is concerned. It is open to the State Government, in the interests of public safety or tranquillity to intercept postal articles. There is absolutely no restriction with reference to the class of persons. Therefore, unless hon. Members are able to make out a case that they enjoy certain rights and privileges which are special and peculiar to members of the House, they cannot possibly object to the above powers of the Government.

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"One pertinent point the hon. Leader of the Opposition made out is—that is the only pertinent point he raised—that our Constitution does not provide for secrecy of correspondence as between two individuals. The only thing now for consideration is whether hon. Members have complete and absolute privilege in any action they may be doing outside this House. Supposing

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the Police have information that there is a conspiracy going on in which an hon. Member of this House is involved—it is not an impossibility—then, does it mean that no action could be taken against him under any law of the land? (Interruption.) I am only arguing on a hypothetical basis. If such action is taken and he is detained, will it amount to preventing him from discharging his duties in this House? Then, simply because one is a Member of this House could no action be taken against him under the ordinary laws of the land and should he be allowed freedom of action in respect of all matters? Therefore, if under certain circumstances the Government are entitled to take certain action under statutory powers—and in this case the Statute lays down that under certain circumstances the Government can intercept the correspondence—will that be taken as a breach of privilege? My respectful submission is that in respect of matters which do not pertain to this House, the Members do not enjoy a higher privilege or absolute privilege. If it is a case of interception with the Speaker's communication”

MR. SPEAKER :—“ That does not arise here.”

THE HON. SRI C. SUBRAMANIAM :—“ Therefore, in respect of other correspondence, there is no question of absolute privilege to Members of this House as far as this matter is concerned.

“ The hon. Leader of the Opposition made a very ingenious speech—it was an ingenious speech, I agree. But I may tell him that I am unable to understand how it conforms to the definition ‘sense’. In his speech, he made out two points, namely, freedom from molestation and access to the Sovereign. By these two things he wanted to argue his case. Even with regard to molestation, supposing a Member is molested somewhere in Tiruchirappalli, certainly it is not a matter of breach of privilege. Any action taken outside the floor of this House cannot be a breach of privilege. By any stretch of imagination, it cannot be said that it is molestation or prevention from discharging his duties in the House. Even granting it is molestation, any molestation done outside the Assembly premises, outside the floor of this legislature, certainly will not be a breach of privilege.

“ Again, he brought forward another point and that was access to the King and here, the people are the Sovereign. According to his argument, suppose a person is imprisoned or remanded to custody, an hon. Member of this House is not able to have access to him. Then the Member will say, ‘Here is breach of privilege. He (the imprisoned person) is my Sovereign. I have a right of access to him. You are preventing my access. Therefore, it is a breach of privilege.’ So remanding to custody or putting in prison of any person will, in fact, be a breach of privilege of a Member of this House. In fact that would be the limit of absurdity to which it would lead if it is extended to its logical

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conclusion. The hon. Leader of the Opposition said that he should have freedom of access to the people, the Sovereign. That is a very good phrase, of course. I respectfully submit that these arguments of the hon. Leader of the Opposition are quite out of place and they do not make any sense, as far as I could see.

“The other thing you, Sir, have to decide is whether hon. Members of this House have an absolute right and privilege which are not enjoyed by the other common people with reference to their correspondence with people outside. I humbly submit that they do not have such privilege and interception with such correspondence does not involve a breach of privilege. (Cheers from Treasury Benches.) Apart from that, there is no *prima facie* case of breach of privilege in this motion at all.”

MR. SPEAKER :—“Before I take up this question, first I want to read the motion, as hon. Members would have forgotten the motion and I do this to brush up my memory as well as their memory. The motion reads as follows :—

“The letters which I address to some of the people in my Constituency and also the letters which I receive from the people in my Constituency are being intercepted by the Special Branch Police. To quote an instance, I wrote a letter to one of the residents in Golden Rock regarding the action taken by me as an M.L.A. to represent the tense situation that has developed in Golden Rock due to an illegal burial of a dead body amidst residential quarters of Railway workers by a Railway officer. This letter was posted on 1st December 1954 in the Mount Road Post Office. But the letter was delivered in Golden Rock to the concerned person on 4th December 1954. I reliably understand that the Special Branch head constable took the envelope from the Post Office as soon as the bags were opened and the letter was with the Police for two days, i.e., on 2nd and 3rd. The envelopes bears the postal seal, dated 4th December 1954, 9 a.m. It also bears the Mount Road postal seal, dated 1st December 1954, which is also sought to be erased. I understand that this has been done by the Special Branch Police under instructions from the State Government.

“Such action by the executive is a serious breach of privilege of the Members of this House and are calculated to undermine the dignity of the House. I submit the matter may be referred to the Committee of Privileges for suitable action.”

“During my regime of office for the last seven years, I have received a number of privilege motions and I have disposed of them easily. I could find a precedent in the House of Commons for all of them. But this motion has given me a lot of trouble. What I did was, I first went through the whole of Hansard volumes. I could not find any precedents. Then I went through the proceedings of the Canadian Parliament. I must tell the House that, that as we enjoy the privileges that are enjoyed by the Members of the House of Commons, the Members of the Canadian Parliament also enjoy the privileges of the House of Commons. But there also I could not find any precedents.

“Then I turned to Australia for studying the proceedings of their Parliament. Article 49 of the Constitution of the Australian Commonwealth says :

“The powers, privileges and immunities of the Senate and of the House of Representatives and of the members and the Committees of each House, shall be

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such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.'

"Fortunately, very fortunately for me, I found a precedent there. A motion had been moved there similar to the one given notice of by Mr. Kalyanasundram. That took place on February 25, 1944. In the Commonwealth House of Representatives, Mr. Cameron (Constituency of Barker) raised the question whether censorship of M.P.'s mail was not a breach of privilege and he gave instances, to which he had drawn the attention of the Minister himself. The hon. Member said that he had raised the question because it struck at the foundation of the privileges of the House, and moved the following motion:—

'That the opening by censors of letters addressed to members of this House at Parliament House, Canberra, or at the rooms occupied by Federal Members in a State Capital City is a breach of privileges of Parliament.

1-20 p.m. ' . . . Among other arguments in support of it, the hon. Member urged that there should be a complete cessation of the opening of letters addressed to Members of the Parliament at this House.'

Then, one Mr. Spender seconded the Motion and there are some interesting facts contained in the observations he made. He maintained that letters sent to M.P.'s, provided they did not come from service personnel or from Military areas, should not be censored. This is what the Leader of the Opposition here (Mr. Ramamurthi) has said :

'Mr. Spender went on :

It was one of the cardinal principles of the democratic system that any man with a grievance should have an unfettered right to approach his Parliamentary representative in an endeavour to obtain redress. It was indefensible that mail despatched from within Australia should be opened unless sent from military areas within the country. Mail was being opened by the censorship authorities under the Post and Telegraph Censorship Order for reasons that bore no relation to the security of the country. Documents that had no relation to national security were, it was freely said, being circulated in Government departments to enable tab to be kept on various persons, and on the financial position and trading operations of firms."

Now let us see what the Prime Minister of Australia said. His name is Mr. Curtin. I shall read the relevant extract :

'The Prime Minister (Rt. Hon. J. Curtin) quoted the Post and Telegraph Censorship Order Gazetted quite early in the War, which laid down clearly that the censor may open and examine all postal articles as defined in the Post and Telegraph Act. Mr. Curtin said that his own mail was subject to censorship.'

The Attorney-General (Mr. Evatt), who came to the rescue of the Government said : 'Refer the matter to the Committee'. The Government accepted the suggestion.

"Subsequently, however, the Leader of the Opposition (Mr. Menzies) wrote a letter to the Prime Minister asking :

'(1) that there should be an inquiry into censorship;

(2) that this should not be conducted by a Royal Commission but by a Committee of Parliament specially appointed, which shall make recommendations to the Government ; and

(3) that the Committee should not be constituted of Party Leaders, but that it should be composed, having regard to the responsible nature of the inquiry of Ministers and former Ministers from the Government and Opposition sides of the House.'

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This suggestion was agreed to and a Committee was actually constituted. It met and submitted its report on 30th March 1944."

SRI M. KALYANASUNDRAM :—" May I know what the ruling of the Speaker was in the first instance? "

MR. SPEAKER :—" The Speaker did not open his mouth at all. (Laughter.) The House came to the conclusion that the matter should be referred to the Committee of Privileges. The Attorney-General said :

' Let us accept it and go into the matter. '

" The ruling given by that committee is very important. It was :

' that the opening by the censors of letters addressed to the Members of the House is not a breach of any existing privilege of the House. ' "

SRI S. SWAYAMPRAKASAM :—" That is about ' letters addressed to Members ' and not by the Members. "

MR. SPEAKER :—" It operates *vice versa*. I also wanted to find out whether there is any law here in existence similar to the one referred to in the ruling. Here is a similar provision. Section 26 of the Post Office Act says :

' On the occurrence of any public emergency, or in the interest of the public safety or tranquility, the Central Government or a Provincial Government or any officer specially authorized in this behalf by the Central or the Provincial Government may, by order in writing direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained, or shall be disposed of in such manner as the authority issuing the order may direct. '

Before I give my ruling I would like to know what Mr. Kalyanasundram wants to say in the light of the Australian finding. I always keep an open mind and I shall give my ruling after hearing him."

SRI M. KALYANASUNDRAM :—" I would like to submit that the elaborate details that you gave us, Sir, in order to enlighten us on the issue before the House, relate to the War period, 1944."

MR. SPEAKER :—" There was an Act in that country and in the light of that Act, the committee of Ministers and ex-Ministers came to the conclusion that there was no breach of privilege. Here also there is a similar Act in existence now, if the letters have been intercepted by the Government as suggested by the Hon. Sri C. Subramaniam."

THE HON. SRI C. SUBRAMANIAM :—" It is only for the sake of argument, I said so."

SRI P. RAMAMURTHI :—" Sir, I would like to make a submission. As far as we are concerned, we need not mortgage our wisdom to the Australian Parliament, however eminent it be. We are not bound by what that committee has said. We have nothing to do with a conclusion arrived at by a committee of the Australian Parliament. The whole point is whether this question

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involves a breach of privilege and if so, it should be referred to the Committee of Privileges. The persons who constituted the Committee in Australia might be eminent men but we are not at all bound by their decision, whether it is Mr. Curtin or it is Mr. Menzies. There are enough brains and enough talent in this House to understand the issue and find out whether our privilege has been affected or not. We need not act on the basis of an Australian decision. I say there is a *prima facie* case. Whether there is a *prima facie* case or not is a matter to be fully gone into and it has to be decided only by this House. The point has to be thoroughly thrashed out here and we should not at all accept what an outside body says."

MR. SPEAKER :—" Let me now give my ruling. There is no *prima facie* case for referring the issue to the Committee of Privileges."

SRI P. RAMAMURTHI :—" Sir, we would like to move that the matter be referred to the Committee of Privileges and let the House consider that motion."

MR. SPEAKER :—" Let the hon. Member give notice."

SRI P. RAMAMURTHI :—" I will give notice and bring in a motion."

IV.—ADJOURNMENT MOTION *re* LOW MINIMUM WAGES PAID FOR BEEDI AND CIGAR WORKERS.

MR. SPEAKER :—" Several hon. Members have given notice of adjournment motions and this is not the time for taking them up. Mr. K. P. Gopalan has given notice of an adjournment motion which reads :

'This Assembly stands adjourned to discuss an urgent matter of public importance, viz., the recent draft notification of the Government fixing very low minimum wages for the beedi and cigar workers in this State, numbering more than 3½ lakhs, and thus giving a handle to the employers to reduce the existing wages and create labour unrest in the State thus causing anxiety among the lakhs of tobacco workers, their families and also to the general public of the State.'

I suggest to him and others that they take advantage of the new provision in the Rules, viz., one-hour debate, instead of moving adjournment motions like this.

" I now adjourn the House to meet again at 11 a.m. on Thursday, 16th December 1954."

The House then adjourned.